REMARKS/ARGUMENTS

These remarks are responsive to the final Office Action dated March 10, 2009. Claims 1, 4, 5, 49, 50, 53, 56-59, 62 and 63 have been amended. No new matter has been added. Claims 1, 4-6, 11, 32-34, 40-50, 53, 54, 56-63, and 65 are pending in this application. Reconsideration, entry of the amendments and allowance of the instant application are respectfully requested.

Claim Rejections Under 35 U.S.C. §103(a)

Claims 1, 4, 11, 32-34, 40-50, 53, 56, 58, 60-62, and 65 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fink *et al.* (U.S. Patent No. 6,496,935) and Joyce (U.S. Patent No. 6,519,703). These rejections are respectfully traversed.

Amended independent claim 1 recites, among other features, a firewall configured to classify data packets including determining whether at least one of the data packets includes content for a real-time audio or video data stream. Neither Fink nor Joyce, either separately or in combination, teaches or suggests such features. The Advisory Action dated June 23, 2009, asserts that Joyce describes "real" time data at lines 1-5 of the Abstract and lines 32-39 of Col. 3. Even assuming, without conceding, that the Action's interpretation of real time data is valid, there is still no teaching or suggestion in either reference (much less Joyce) that the classification includes determining whether the data packets include content for a real-time audio or video data stream. Indeed, neither reference even mentions audio or video streams, much less classification of data packets based thereon. Accordingly, claim 1 is allowable for at least these reasons.

Claims 49, 50 and 62 recite features similar to those discussed above with respect to claim 1 and is thus allowable for at least the same reasons as claim 1.

Claims 4, 11, 32-34, 40-48, 53, 56, 58, 60, 61 and 65 are dependent claims and are thus allowable for at least the same reasons as their respective base claims and further in view of the novel and non-obvious features recited therein.

Claims 5, 57, 59, 63 and 64 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fink and Joyce and further in view of Lee (U.S. Patent No. 7,047,561, "Lee"). These rejections are respectfully traversed.

The combination of Fink and Joyce does not disclose all the features of claims 1, 49, 50, and 62. Furthermore, Lee does not cure the deficiencies of Fink and Joyce as discussed above with respect to claim 1. Accordingly, claims 1, 49, 50, and 62 are also patentably distinct over Fink in view of Joyce and in further view of Lee. Claims 5, 57, 59, and 63 are dependent claims and are thus patentably distinct from the asserted combination of Fink, Joyce and Lee for at least the same reasons as their respective base claims.

Even assuming, without conceding, that Lee describes real-time audio or video data streams, Applicants respectfully submit that the asserted combination is invalid. In particular, the Office Action's alleged motivation for making the asserted combination is that such a combination would provide an advantage in optimizing the processing speed through the use of the packet filter operating at the network layer. However, as noted previously, the Office Action's assertions are merely based on an application of impermissible hindsight reconstruction in piecing together the prior art references using Applicants' Specification as a blueprint to arrive at the asserted combination. The Advisory Action's response to Applicants' remarks is merely that the references would have been combined by one of ordinary skill in the art in the manner asserted to provide real-time Internet application security while providing necessary speed. However, this assertion is entirely unsupported. That is, neither reference teaches or suggests providing internet application security while providing necessary speed by classifying data packets specifically based on whether the data packets include real-time audio and video streams.

Significantly, most, if not all, of the data filtered by Lee relates to data for real time Internet applications. *See, generally,* Abstract. Thus, Lee is not differentiating packets based on whether the packets include real-time data; rather Lee differentiates among the real-time data based on a channel carrying the data. *Id.*; *see also* Col. 3, ll. 32-55. Accordingly, even assuming, without conceding, that the asserted combination is proper, the combination would not result in the invention as recited in the above noted claims. Instead, the combination of Fink, Joyce and Lee would result in data packet classification that includes determining a channel on which the data packet arrived (rather than whether the data packet includes a video or audio stream as recited in claims 1, 49, 50 and 62). Claims 1, 49, 50, and 62 are thus allowable for these additional reasons.

Claims 6 and 54 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fink and Joyce and further in view of Lyle (U.S. Patent No. 6,886,102, "Lyle"). These rejections are respectfully traversed.

As discussed above Fink and Joyce do not disclose all the features of claims 1 and 50. Lyle does not cure the deficiencies of Fink and Joyce. Thus, claims 1 and 50 are patentably distinct over Fink in view of Joyce in further view of Lyle. Claims 6 and 54 depend from claims 1 and 50, respectively, and are patentably distinct over Fink in view of Joyce and Lyle for at least the reasons as their ultimate base claim, and for the additional reasons recited therein.

CONCLUSION

Based on the foregoing, Applicants respectfully submit that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,

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